

House File 433 - Introduced

HOUSE FILE 433

BY JACOBY

A BILL FOR

1 An Act providing for a linked investment loans for emerging
2 businesses program administered by the economic development
3 authority.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 15.335B, subsection 2, paragraph a, Code
2 2013, is amended by adding the following new subparagraph:

3 NEW SUBPARAGRAPH. (7) For providing linked investment
4 loans pursuant to section 15E.84.

5 Sec. 2. NEW SECTION. 15E.81 **Short title.**

6 This division shall be known as and may be cited as the
7 *"Linked Investment Loans for Emerging Businesses Act"*.

8 Sec. 3. NEW SECTION. 15E.82 **Definitions.**

9 For purposes of this division, unless the context otherwise
10 requires:

11 1. *"Authority"* means the economic development authority.

12 2. *"Eligible borrower"* means a business meeting the
13 requirements of section 15E.83.

14 3. *"Eligible lending institution"* means a financial
15 institution empowered to make commercial loans and eligible to
16 be a depository of state funds pursuant to chapter 12C.

17 4. *"Emerging business"* means a business in existence less
18 than five years.

19 5. *"Fund"* means a fund established by the authority pursuant
20 to section 15.106A, subsection 1, paragraph "o", for the
21 purposes described in section 15.335B.

22 6. *"Linked investment"* means an agreement between the
23 authority and an eligible lending institution in which the
24 authority obtains a certificate of deposit from the lending
25 institution and in which the eligible lending institution
26 agrees to loan to an eligible borrower an amount at least equal
27 to the amount of the principal specified in the certificate of
28 deposit.

29 7. *"Primary sector business"* means a business participating
30 in interstate or intrastate commerce and engaged in
31 manufacturing, processing, or assembling products, conducting
32 research and development, or providing services in interstate
33 or intrastate commerce. *"Primary sector business"* does not
34 include retail, health, or professional services businesses.

35 8. *"Program"* means the linked investment loans for emerging

1 businesses program established in section 15E.84.

2 9. "*Qualifying wage threshold*" means the same as defined in
3 section 15.327.

4 Sec. 4. NEW SECTION. 15E.83 **Eligible borrowers.**

5 1. A business meeting the requirements of this section is
6 eligible to apply for the linked investment loans for emerging
7 businesses program established in section 15E.84.

8 2. To be eligible, a business must meet all of the following
9 requirements:

10 a. The business is an Iowa-based primary sector business.

11 b. The business is an emerging business seeking to
12 expand, an emerging business seeking to purchase another
13 Iowa-based business, or any existing business that has suffered
14 significant physical damage as a result of a natural disaster.

15 c. The business can demonstrate that the proceeds of a
16 linked investment loan will result in the creation or retention
17 of five or more jobs at one hundred eighty percent of the
18 qualifying wage threshold, ten or more jobs at one hundred
19 sixty percent of the qualifying wage threshold, or twenty or
20 more jobs at one hundred thirty percent of the qualifying wage
21 threshold.

22 Sec. 5. NEW SECTION. 15E.84 **Linked investment loans for**
23 **emerging businesses program.**

24 1. *Program established.*

25 a. The authority shall establish and administer a linked
26 investment loans for emerging businesses program for purposes
27 of investing moneys in financial institutions in order to
28 facilitate the flow of private capital to eligible borrowers.

29 b. In investing moneys under the program, the authority
30 shall invest in certificates of deposit at eligible lending
31 institutions. The authority may invest as much as twenty-five
32 percent of the balance of moneys in the fund.

33 c. The authority may obtain or renew a certificate of
34 deposit from an eligible lending institution for an amount of
35 time determined by the authority, but the total amount of time

1 a certificate may be held by an eligible lending institution
2 shall not exceed five years.

3 *d.* Interest earned under the program shall be considered
4 earnings of the fund and notwithstanding section 12C.7 shall
5 be credited to the fund.

6 *e.* A loan provided to an eligible borrower through a
7 linked investment pursuant to this division does not receive
8 assistance for purposes of sections 15.329, 15.330, 15.330A,
9 and 15.335B and is not subject to the requirements specified
10 in those sections.

11 *2. Application and certification.*

12 *a.* An eligible lending institution wishing to participate in
13 the program shall accept and review applications for loans from
14 eligible borrowers.

15 *b.* The eligible lending institution shall certify that the
16 applicant is an eligible borrower under the program, determine
17 whether to make a loan to the applicant, and, if so, the amount
18 of the loan.

19 *3. Loan packages.*

20 *a.* An eligible lending institution wishing to accept
21 a linked investment from the authority shall send to the
22 authority a loan package.

23 *b.* The loan package shall include but not be limited to the
24 amount of the loan requested by the applicant, the amount of
25 the investment requested by the eligible lending institution
26 from the authority, a plan detailing the purposes for which
27 the applicant intends to expend the loan proceeds, an estimate
28 of the economic impact to the state of the applicant's plan
29 for the proceeds, and a certification by the eligible lending
30 institution that the applicant is an eligible borrower pursuant
31 to section 15E.83.

32 *4. Linked investment terms.*

33 *a.* The authority shall accept and review loan packages sent
34 by eligible lending institutions. The authority, subject to
35 the requirements of this division, may make a linked investment

1 according to the terms requested in the loan package or may
2 negotiate other terms.

3 *b.* In reviewing a loan package as a potential linked
4 investment, the authority shall consider the type or terms of
5 the loan involved, the nature of the applicant's business, the
6 availability of state funds, and the compliance history of both
7 the eligible borrower and the eligible lending institution.

8 *c.* Upon reaching acceptable terms for the linked
9 investment, the authority shall deposit with the eligible
10 lending institution moneys from the fund, and the eligible
11 lending institution shall issue to the authority one or more
12 certificates of deposit.

13 *d.* The interest rate of a certificate of deposit may
14 be negotiated by the authority and the eligible lending
15 institution but shall be at a rate below the current market
16 rate. However, the authority shall not negotiate an annualized
17 interest rate on the certificate of deposit that is less than
18 one-half of one percent.

19 *e.* The eligible lending institution shall remit the interest
20 earned on the certificate of deposit and any principal not
21 renewed on the date the certificate of deposit matures.

22 *f.* Certificates of deposit issued pursuant to this division
23 shall not be subject to a penalty for early withdrawal.

24 5. *Loan terms.* An eligible lending institution accepting
25 a linked investment shall make a loan to the applicant for an
26 amount at least equal to the value of the moneys deposited by
27 the authority. The loan shall be at an interest rate not more
28 than four percent above the interest rate of the certificate
29 of deposit.

30 Sec. 6. NEW SECTION. 15E.85 **Liability.**

31 1. Neither the state nor the authority shall be liable to
32 an eligible lending institution in any manner for payment of
33 the principal or interest on the loan from an eligible lending
34 institution to an eligible borrower.

35 2. In making linked investments with eligible lending

1 institutions for loans to eligible borrowers, the authority
2 shall not pledge the credit or taxing power of the state nor
3 in any manner give or loan the state's credit in aid of the
4 eligible borrower.

5 3. In making linked investments with eligible lending
6 institutions for loans to eligible borrowers, the authority
7 shall not pay, assume, or become responsible for the debts or
8 liabilities of the eligible borrower.

9 4. A delay in payments by an eligible borrower to an
10 eligible lending institution or a default on the part of an
11 eligible borrower shall not in any manner affect the linked
12 investment agreement between the eligible lending institution
13 and the authority.

14 Sec. 7. NEW SECTION. 15E.86 Rules.

15 The authority shall adopt rules pursuant to chapter 17A to
16 administer this division. The rules shall provide for the
17 administration of the program and for monitoring the compliance
18 of eligible lending institutions and eligible borrowers with
19 the requirements of this division.

20 EXPLANATION

21 This bill creates a linked investment loans for emerging
22 businesses program.

23 Under the program created in the bill, an eligible business
24 applies to an eligible lending institution for a loan, and the
25 lending institution seeks a linked investment from the economic
26 development authority. Moneys invested by the authority come
27 from the high quality jobs fund or funds.

28 An eligible lending institution is a financial institution
29 empowered to make commercial loans and eligible to be a
30 depository of state funds pursuant to Code chapter 12C. An
31 eligible borrower is a business that is: (1) an Iowa-based
32 primary sector business; (2) an emerging business seeking
33 to expand, an emerging business seeking to purchase another
34 Iowa-based business, or any existing business that has suffered
35 significant physical damage as a result of a natural disaster;

1 and (3) a business that can demonstrate that the proceeds of a
2 linked investment loan will result in the creation or retention
3 of five or more jobs at 180 percent of the qualifying wage
4 threshold, 10 or more jobs at 160 percent of the qualifying
5 wage threshold, or 20 or more jobs at 130 percent of the
6 qualifying wage threshold.

7 If a lending institution wishes to receive a linked
8 investment, the lending institution must send a loan package
9 to the authority for review. The authority may negotiate the
10 terms of the linked investment and accept a certificate of
11 deposit from the lending institution. The lending institution
12 must agree to loan an amount at least equal to the value of
13 the certificate of deposit to the eligible borrower. The
14 annualized interest rate on the certificate of deposit is
15 negotiable but cannot be less than one-half of 1 percent.
16 The loan to the eligible borrower cannot be at a rate of
17 interest more than 4 percent above the rate of the authority's
18 certificate of deposit.

19 The linked investments do not constitute the payment of a
20 business debt by the state nor do they pledge the credit or
21 taxing power of the state.

22 The authority is directed to adopt rules for the
23 administration of the program.